

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

DEBRA BLOOMER, Individually,)	Case No. 8:05CV00503
And as Mother and Guardian of)	
JONATHAN BLOOMER, a Minor,)	
)	
Plaintiffs,)	
)	
vs.)	DEFENDANT BRIDGESTONE
)	FIRESTONE NORTH AMERICAN
)	TIRE, LLC'S MOTION TO EXCLUDE
BRIDGESTONE FIRESTONE NORTH)	EXPERT TESTIMONY OF DAVID
AMERICAN TIRE, LLC,)	OSBORNE AND REQUEST FOR ORAL
Tennessee Limited Liability Company,)	ARGUMENT
)	
Defendant.)	

**DEFENDANT BRIDGESTONE FIRESTONE NORTH AMERICAN TIRE, LLC'S
MOTION TO EXCLUDE EXPERT TESTIMONY OF
DAVID OSBORNE AND REQUEST FOR ORAL ARGUMENT**

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW Bridgestone Firestone North American Tire, LLC (hereinafter referred to as "Firestone"), Defendant in the above-entitled and numbered cause, and makes and files this its Motion to Exclude Expert Testimony of David Osborne and Request for Oral Argument, and for such would respectfully show unto the Court as follows:

I.

This is a products liability action arising out of a motor vehicle accident which occurred November 8, 2001 on "A" Street in Cass County, Nebraska. Plaintiffs allege the left rear LT265/75R16 Firestone Steeltex AT LRD tire ("subject tire") on the 2000 Ford Excursion Debra Bloomer was operating "experienced a sidewall blowout" causing her to lose control of

the vehicle.¹ Plaintiffs bring negligence and strict liability causes of action against Firestone. Plaintiffs have designated David Osborne as an “expert witness” to be called at the trial of this matter for the purpose of offering his opinion regarding alleged defects in the subject tire.

Osborne: (1) has conducted no testing to support his opinion, (2) has no scientific studies to support his opinion, (3) has not subjected his opinion to peer-review, (4) cannot identify any tire expert anywhere in the world that has accepted his opinion and methodology, (5) cannot establish the rate of error for his opinion given his lack of testing, and (6) has no physical evidence of an alleged tire sidewall blowout. Further, Osborne is not qualified to give testimony regarding his purported tire defect theory. He should, accordingly, be excluded as an expert in this matter.

II.

Firestone’s arguments and evidentiary support for its Motion to Exclude Expert Testimony of David Osborne are set forth in its Brief in Support of Its Motion to Exclude Expert Testimony of David Osborne, which Firestone incorporates herein by reference for all purposes.

III.

Firestone filed its Brief in Support of Its Motion to Exclude Expert Testimony of David Osborne on November 21, 2007. Firestone inadvertently failed to also file this its Motion to Exclude Expert Testimony of David Osborne on the same day. Firestone requests that this Court grant leave to file Firestone’s Motion to Exclude Expert Testimony of David Osborne

¹ Firestone maintains the subject tire did not blow out or fail.

today, November 26, 2007, two business days after November 21, 2007.² Firestone is willing to give Plaintiffs an additional five (5) days to respond to its Motion to Exclude Expert Testimony of David Osborne.

WHEREFORE, PREMISES CONSIDERED, Defendant Bridgestone Firestone North American Tire, LLC respectfully requests its Motion to Exclude Expert Testimony of David Osborne be granted; that the Court enter an Order excluding or restricting the expert opinion testimony of David Osborne set forth in Firestone's Brief in Support of Its Motion to Exclude Expert Testimony of David Osborne; and for such other relief, both at law and in equity, to which this Defendant may show itself to be justly entitled. Further, Defendant requests oral argument on its Motion, which will be helpful to the Court because of the complex scientific and legal issues involved.

² See Firestone's Motion for Leave to file its Motion to Exclude Expert Testimony of David Osborne Out of Time, filed simultaneously with this Motion and incorporated herein for all purposes.

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CERTIFICATE OF SERVICE

I hereby certify that on the 26th day of November, 2007, I electronically filed the foregoing with the clerk of the Court using the CM/ECF system which sent notification of such filing to the following:

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